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such action is justified under §1612.4. Information shall be withheld only by a recorded vote of a majority of the entire membership of the agency.

(c) The announcement described in paragraph (a) of this section may be accomplished less than one week prior to the commencement of any meeting or series of meetings where:

(1) A majority of the members of the Commission determines by recorded vote that agency business requires that any such meeting or series of meetings be held at an earlier date.

(2) A meeting is closed under the Commission's regulation as set forth in §1612.13(a) of this part.

(3) A meeting is closed pursuant to a request made under §1612.6 of this part and submitted less than seven days prior to the meeting.

(4) There has been a change in the subject matter or determination to open or close a meeting previously announced.

In these instances, the agency shall make public announcement at the earliest practicable time.

(d) Immediately following any public announcement accomplished under the provisions of this section, the agency shall submit a notice for publication in the FEDERAL REGISTER disclosing:

(1) The time of the meeting.

(2) The place of the meeting.

(3) The subject matter of each portion of each meeting or series of meetings.

(4) Whether any portion(s) of a meeting will be open or closed to public observation.

(5) The name and telephone number of an official designated to respond to requests for information about the meeting.

[42 FR 13830, Mar. 14, 1977, as amended at 55 FR 8140, Mar. 7, 1990]

§ 1612.8 Public announcement of changes in meetings.

(a) The agency is required to make a public announcement of any changes in its meeting or portion(s) thereof. If, after the announcement provided for in §1612.7, the time or place of a meeting is changed or the meeting is cancelled, the agency will announce the change at the earliest practicable time. The subject matter or the determination to

open or close the meeting may be changed only if (1) a majority of the entire membership of the agency determines by recorded vote that agency business so requires and that no earlier announcement of the change was possible and (2) the agency publicly announces the change and the vote of each member upon such change at the earliest practicable time.

(b) Immediately following any public announcement of any change accomplished under the provisions of this section, the agency shall submit a notice for publication in the FEDERAL REGISTER disclosing:

(1) The time of the meeting.

(2) The place of the meeting.

(3) The subject matter of each portion of each meeting or series of meetings.

(4) Whether any portion(s) of a meeting is open or closed to public observation.

(5) Any change in paragraphs (b) (1), (2), (3), or (4) of this section.

(6) The name and telephone number of the official designated to respond to requests for information about any meeting.

§ 1612.9 Legal Counsel's certification in closing a meeting.

(a) Upon any proper request made pursuant to this part, that the agency close a meeting or portion(s) thereof, the Legal Counsel shall certify in writing to the agency, whether in his or her opinion the closing of a meeting or portion(s) thereof is proper under the provisions of this part and the terms of the Government in the Sunshine Act (5 U.S.C. 552b). If, in the opinion of the Legal Counsel, a meeting or portion(s) thereof is proper for closing under this part and the terms of the Government in the Sunshine Act, his or her certification of that opinion shall cite each applicable particular exemption of that Act and provision of this part.

(b) A copy of the certification of the Legal Counsel as described in paragraph (a) of this section together with a statement of the presiding officer of the meeting setting forth the time and place of the relevant meeting or meetings, and the persons present, shall be

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maintained by the agency in a public file.

[42 FR 13830, Mar. 14, 1977, as amended at 47 FR 46276, Oct. 18, 1982]

§ 1612.10 Recordkeeping requirements.

(a) In the case of any meeting or portion(s) thereof to be closed to public observation under the provisions of this part, the following records shall be maintained by the Executive Secretary of the agency:

(1) The certification of the Legal Counsel pursuant to §1612.9 of this part;

(2) A statement from the presiding officer of the meeting or portion(s) thereof setting forth the time and place of the meeting, and the persons present;

(3) A complete electronic recording adequate to record fully the proceedings of each meeting closed to the public observation, except that in a meeting closed pursuant to paragraph (h) or (j) of §1612.4, the agency may maintain minutes in lieu of a recording. Such minutes shall fully, and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote. All documents considered in connection with any item shall be identified in the minutes.

(b) If the agency has determined that the meeting or portion(s) thereof may properly be closed to the public, the electronic recording or minutes shall not be made available to the public until such future time, if any, as it is determined by the Commission upon request, that the reasons for closing the meeting no longer pertain; Provided, however, that any separable portion of a recording or minutes will be made promptly available to the public if that portion does not contain information properly withheld under §1612.4.

(c) The agency shall maintain a copy of the electronic recording or minutes for a period of two years after the meeting, or until one year after the conclusion of the proceeding to which

the meeting relates, whichever occurs later.

[42 FR 13830, Mar. 14, 1977, as amended at 47 FR 46276, Oct. 18, 1982]

§ 1612.11 Public access to records.

All requests for information shall be submitted in writing to the Chairman of the agency. Requests to inspect or copy the electronic recordings or minutes of agency meetings or portions thereof will be considered under the provisions of §1612.4 of this part.

§ 1612.12 Fees.

(a) Records provided to the public under this part shall be furnished at the expense of the party requesting copies of the recording or minutes, upon payment of the actual cost of duplication.

(b) All required fees shall be paid in full prior to issuance of requested copies of records. Fees are payable to the "Treasurer of the United States."

§ 1612.13 Meetings closed by regulation.

(a) This paragraph constitutes the Commission's regulation promulgated pursuant to paragraph (d)(4) of the Government in the Sunshine Act and may be invoked by the agency to close meetings or portions thereof where the subject matter of such meeting or portion of a meeting is likely to involve:

(1) Matters pertaining to the issuance of subpoenas;

(2) Subpoena modification and revocation requests, and

(3) The Agency's participation in civil actions or proceedings pertaining thereto.

(b) When closing a meeting or portion thereof under the Commission's regulation set forth in paragraph (a) of this section, a majority of the Commission membership shall vote at or before the beginning of such meeting or portion thereof to do so. The vote to close a meeting by regulation shall be recorded and made publicly available.

(c) The Commission's determination to promulgate the regulation in paragraph (a) of this section is based upon a review of the agenda of Commission meetings for the two years prior to the promulgation of these regulations.